REMARKS/ARGUMENTS

Claims 52-73 are active in this application, claims 1-51 having been cancelled. New claims 52-73 correspond to previous claims 33-51 with some exceptions. New claim 52 corresponds to the first portion of prior claim 33, with the further requirement that the hydrogel particles have a coefficient of variance (CV) for the particle diameter of 5 or less. This is supported in the present specification at page 51, 4th line from the bottom. Claims 53 and 54 correspond to the other portions of previous claim 33. Claims 55 and 56 are supported by the specification at page 10, lines 9-10. Claims 57-73 correspond to previous claims 34-49 and 51, respectively, with claims 62 and 63 referring to particle shape rather than droplet shape. This is supported by the specification at page 11, lines 4-10. No new matter has been added by these amendments.

The present invention relates to a skin cosmetic composition comprising hydrogel particles dispersed in an aqueous medium, wherein each of said hydrogel particles comprises a non-crosslinked hydrogel having an oil component dispersed therein, wherein the hydrogel particles have a CV value for particle diameter of 5 or less. This very low value for particle diameter CV results in very high uniformity in the particles contained in the composition.

Previously, the Examiner has rejected claims based upon a combination of Delrieu, in view of Noda and Rosenstreich. Noda and Rosenstreich were cited by the Examiner with respect to certain viscosity and specific gravity requirements in the prior claims. However, those viscosity and specific gravity requirements are no longer in the independent claim. Rather, the present claims require that the hydrogel particles have a CV for particle diameter (or size) of 5 or less. None of the references cited by the Examiner disclose or suggest such a tight particle size distribution.

Applicants provide herewith a Rule 1.132 Declaration by Hideaki Kubo discussing the differences between the present invention requirement of a CV of 5 or less for the hydrogel particles diameter, and the information regarding particle size distribution found in Delrieu.

As noted in the Declaration:

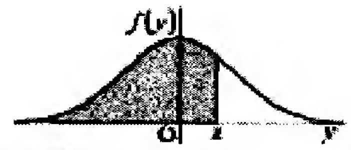
The coefficient of variance (CV) is a normalized measure of dispersion of a probability distribution. It is defined as the ratio of the standard deviation σ to the mean μ, as follows:

$$c_v = \sigma / \mu$$

The CV is often reported as a percentage (%) by multiplying by 100. The use of the CV permits the comparison between data sets having different units or highly different means. Thus, a CV of 5 or less for particle as required by the present invention means that the standard deviation must be 5% or less of the value of the mean particle size.

The standard deviation σ of a given point Z can be calculated using a standard normal distribution chart.

$$\Pr[\,y \le z\,] = \int_{-\infty}^{z} f(y)\,dy \qquad f(y) = \frac{1}{\sqrt{2\pi}} e^{-\frac{y^2}{2}}$$

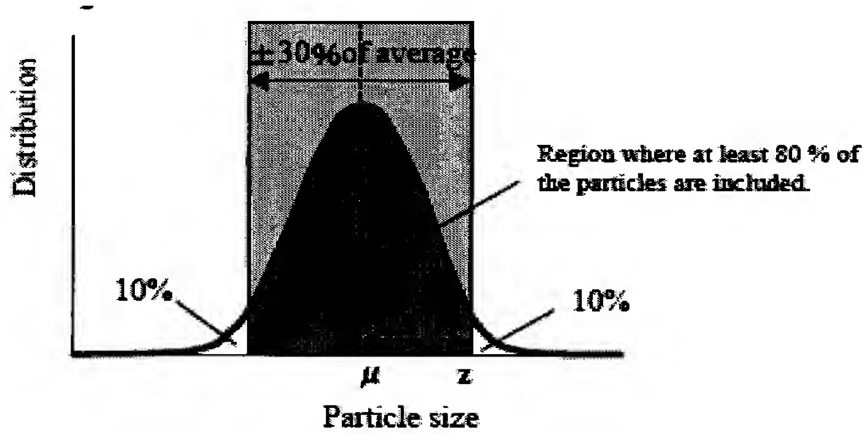


z	+.00	+.01	+.02	+.03	+.04	+.05	+.06	+.07	+.08	+.09
0.0	0.5000	0.5040	0.5080	0.5120	0.5160	0.5199	0.5239	0.5279	0.5319	0.5359
0.1	0.5398	0.5438	0.5478	0.5517	0.5557	0.5596	0.5636	0.5675	0.5714	0.5753
0.2	0.5793	0.5832	0.5871	0.5910	0.5948	0.5987	0.6026	0.6064	0.6103	0.6141
0.3	0.6179	0.6217	0.6255	0.6293	0.6331	0.6368	0.6406	0.6443	0.6480	0.6517
0.4	0.6554	0.6591	0.6628	0.6664	0.6700	0.6736	0.6772	0.6808	0.6844	0.6879
0.5	0.6915	0.6950	0.6985	0.7019	0.7054	0.7088	0.7123	0.7157	0.7190	0.7224
0.6	0.7257	0.7291	0.7324	0.7357	0.7389	0.7422	0.7454	0.7486	0.7517	0.7549
0.7	0.7580	0.7611	0.7642	0.7673	0.7704	0.7734	0.7764	0.7794	0.7823	0.7852
0.8	0.7881	0.7910	0.7939	0.7967	0.7995	0.8023	0.8051	0.8078	0.8106	0.8133
0.9	0.8159	0.8186	0.8212	0.8238	0.8264	0.8289	0.8315	0.8340	0.8365	0.8389
1.0	0.8413	0.8438	0.8461	0.8485	0.8508	0.8531	0.8554	0.8577	0.8599	0.8621
1.1	0.8643	0.8665	0.8686	0.8708	0.8729	0.8749	0.8770	0.8790	0.8810	0.8830
1.2	0.8849	0.8869	0.8888	0.8907	0.8925	0.8944	0.8962	0.8980	$\boxed{0.8997}$	0.9015
1.3	0.9032	0.9049	0.9066	0.9082	0.9099	0.9115	0.9131	0.9147	0.9162	0.9177
1.4	0.9192	0.9207	0.9222	0.9236	0.9251	0.9265	0.9279	0.9292	0.9306	0.9319
1.5	0.9332	0.9345	0.9357	0.9370	0.9382	0.9394	0.9406	0.9418	0.9429	0.9441
1.6	0.9452	0.9463	0.9474	0.9484	$\boxed{0.9495}$	0.9505	0.9515	0.9525	0.9535	0.9545
1.7	0.9554	0.9564	0.9573	0.9582	0.9591	0.9599	0.9608	0.9616	0.9625	0.9633
1.8	0.9641	0.9649	0.9656	0.9664	0.9671	0.9678	0.9686	0.9693	0.9699	0.9706
1.9	0.9713	0.9719	0.9726	0.9732	0.9738	0.9744	0.9750	0.9756	0.9761	0.9767
2.0	0.9772	0.9778	0.9783	0.9788	0.9793	0.9798	0.9803	0.9808	0.9812	0.9817
2.1	0.9821	0.9826	0.9830	0.9834	0.9838	0.9842	0.9846	0.9850	0.9854	0.9857
2.2	0.9861	0.9864	0.9868	0.9871	0.9875	0.9878	0.9881	0.9884	0.9887	0.9890
2.3	0.9893	0.9896	0.9898	0.9901	0.9904	0.9906	0.9909	0.9911	0.9913	0.9916
2.4	0.9918	0.9920	0.9922	0.9925	0.9927	0.9929	0.9931	0.9932	0.9934	0.9936
2.5	0.9938	0.9940	0.9941	0.9943	0.9945	0.9946	0.9948	0.9949	0.9951	0.9952
2.6	0.9953	0.9955	0.9956	0.9957	0.9959	0.9960	0.9961	0.9962	0.9963	0.9964
2.7	0.9965	0.9966	0.9967	0.9968	0.9969	0.9970	0.9971	0.9972	0.9973	0.9974
2.8	0.9974	0.9975	0.9976	0.9977	0.9977	0.9978	0.9979	0.9979	0.9980	0.9981
2.9	0.9981	0.9982	0.9982	0.9983	0.9984	0.9984	0.9985	0.9985	0.9986	0.9986
3.0	0.9987	0.9987	0.9987	0.9988	0.9988	0.9989	0.9989	0.9989	0.9990	0.9990
3.1	0.9990	0.9991	0.9991	0.9991	0.9992	0.9992	0.9992	0.9992	0.9993	0.9993
3.2	0.9993	0.9993	0.9994	0.9994	0.9994	0.9994	0.9994	0.9995	0.9995	0.9995
3.3	0.9995	0.9995	0.9995	0.9996	0.9996	0.9996	0.9996	0.9996	0.9996	0.9997
3.4	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9998
3.5	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998
3.6	0.9998	0.9998	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999
3.7	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999
3.8	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999
3.9	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000

For example, to calculate σ of point Z, one determines the relative area of the entire curve up to the point Z, then locate the value on the chart that is closest to that relative area. Thus if the area up to point Z is 0.9 of the entire area, one locates the value closest to 0.9 (without exceeding 0.9), which is 0.8997. The result is Z is at 1.28σ.

Turning to Delrieu, Delrieu states that their particles are preferred to have at least 80% of the particles, more preferably at least 90%, lie within a desired average particle size

bracket extending ±30% on either side of the average particle size, as shown in the figure below (see column 5, lines 53-59 of Delrieu):



Thus, for the case where 80% of the particles are included within plus or minus 30% of the average particle size as required by Delrieu, the area from the far left of the curve to point Z is 90%. Thus, 1.28 σ can be obtained as σ of point Z based on the above chart. This gives:

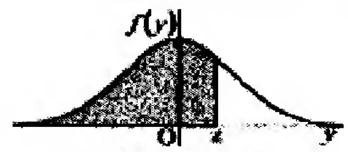
$1.28\ \sigma = 0.3\ \mu$

Thus, $\sigma = (0.3/1.28)\ \mu$, giving $\sigma/\ \mu = 0.3/1.28 = 0.234$, or a CV value of 23.4.

Similarly, for the case where 90% of the particles are within plus or minus 30% of the average particle size, applying the same calculations, one obtains 0.3/1.64 = 0.183, or a CV value of 18.3.

However, the present invention requires that the CV for particle diameter must be 5 or less for the hydrogel particles. This provides a highly uniform particle diameter distribution. In particular, a CV of 5 gives $0.05 = \sigma/\ \mu$. Thus, $\sigma = 0.05\ \mu$, or $2\ \sigma = 0.1\ \mu$. Using the standard normal distribution chart:

$$\Pr[y \le z] = \int_{-\infty}^{z} f(y)\,dy \qquad f(y) = \frac{1}{\sqrt{2\pi}} e^{-\frac{y^2}{2}}$$



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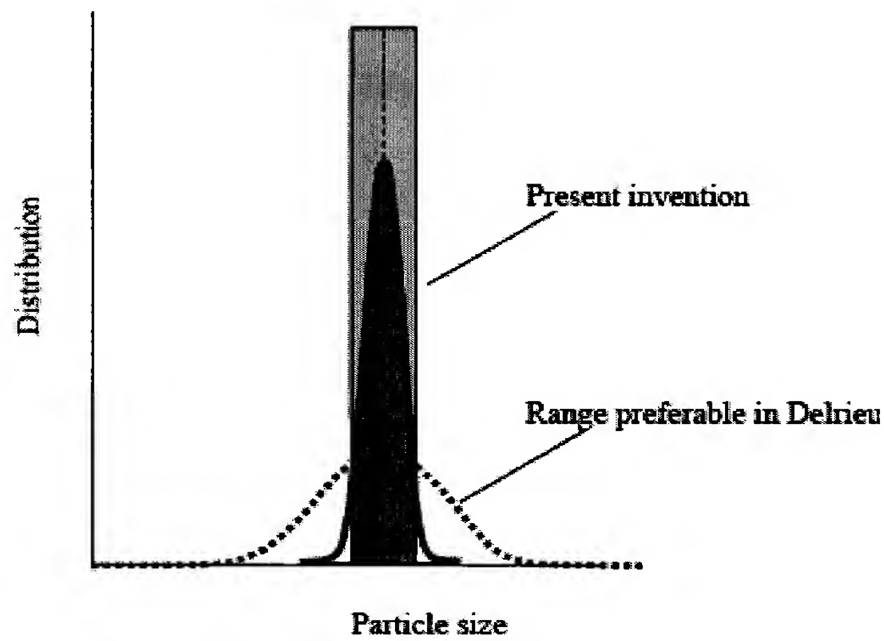
0.1	0.5398	0.5438	0.5478	0.5517	0.5557	0.5596	0.5636	0.5675	0.5714	0.5753
0.2	0.5793	0.5832	0.5871	0.5910	0.5948	0.5987	0.6026	0.6064	0.6103	0.6141
0.3	0.6179	0.6217	0.6255	0.6293	0.6331	0.6368	0.6406	0.6443	0.6480	0.6517
0.4	0.6554	0.6591	0.6628	0.6664	0.6700	0.6736	0.6772	0.6808	0.6844	0.6879
0.5	0.6915	0.6950	0.6985	0.7019	0.7054	0.7088	0.7123	0.7157	0.7190	0.7224
0.6	0.7257	0.7291	0.7324	0.7357	0.7389	0.7422	0.7454	0.7486	0.7517	0.7549
0.7	0.7580	0.7611	0.7642	0.7673	0.7704	0.7734	0.7764	0.7794	0.7823	0.7852
0.8	0.7881	0.7910	0.7939	0.7967	0.7995	0.8023	0.8051	0.8078	0.8106	0.8133
0.9	0.8159	0.8186	0.8212	0.8238	0.8264	0.8289	0.8315	0.8340	0.8365	0.8389
1.0	$\boxed{0.8413}$	0.8438	0.8461	0.8485	0.8508	0.8531	0.8554	0.8577	0.8599	0.8621
1.1	0.8643	0.8665	0.8686	0.8708	0.8729	0.8749	0.8770	0.8790	0.8810	0.8830
1.2	0.8849	0.8869	0.8888	0.8907	0.8925	0.8944	0.8962	0.8980	0.8997	0.9015
1.3	0.9032	0.9049	0.9066	0.9082	0.9099	0.9115	0.9131	0.9147	0.9162	0.9177
1.4	0.9192	0.9207	0.9222	0.9236	0.9251	0.9265	0.9279	0.9292	0.9306	0.9319
1.5	0.9332	0.9345	0.9357	0.9370	0.9382	0.9394	0.9406	0.9418	0.9429	0.9441
1.6	0.9452	0.9463	0.9474	0.9484	0.9495	0.9505	0.9515	0.9525	0.9535	0.9545
1.7	0.9554	0.9564	0.9573	0.9582	0.9591	0.9599	0.9608	0.9616	0.9625	0.9633
1.8	0.9641	0.9649	0.9656	0.9664	0.9671	0.9678	0.9686	0.9693	0.9699	0.9706
1.9	0.9713	0.9719	0.9726	0.9732	0.9738	0.9744	0.9750	0.9756	0.9761	0.9767
2.0	$\boxed{0.9772}$	0.9778	0.9783	0.9788	0.9793	0.9798	0.9803	0.9808	0.9812	0.9817
2.1	0.9821	0.9826	0.9830	0.9834	0.9838	0.9842	0.9846	0.9850	0.9854	0.9857
2.2	0.9861	0.9864	0.9868	0.9871	0.9875	0.9878	0.9881	0.9884	0.9887	0.9890
2.3	0.9893	0.9896	0.9898	0.9901	0.9904	0.9906	0.9909	0.9911	0.9913	0.9916
2.4	0.9918	0.9920	0.9922	0.9925	0.9927	0.9929	0.9931	0.9932	0.9934	0.9936
2.5	0.9938	0.9940	0.9941	0.9943	0.9945	0.9946	0.9948	0.9949	0.9951	0.9952
2.6	0.9953	0.9955	0.9956	0.9957	0.9959	0.9960	0.9961	0.9962	0.9963	0.9964
2.7	0.9965	0.9966	0.9967	0.9968	0.9969	0.9970	0.9971	0.9972	0.9973	0.9974
2.8	0.9974	0.9975	0.9976	0.9977	0.9977	0.9978	0.9979	0.9979	0.9980	0.9981
2.9	0.9981	0.9982	0.9982	0.9983	0.9984	0.9984	0.9985	0.9985	0.9986	0.9986
3.0	0.9987	0.9987	0.9987	0.9988	0.9988	0.9989	0.9989	0.9989	0.9990	0.9990
3.1	0.9990	0.9991	0.9991	0.9991	0.9992	0.9992	0.9992	0.9992	0.9993	0.9993
3.2	0.9993	0.9993	0.9994	0.9994	0.9994	0.9994	0.9994	0.9995	0.9995	0.9995
3.3	0.9995	0.9995	0.9995	0.9996	0.9996	0.9996	0.9996	0.9996	0.9996	0.9997
3.4	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9997	0.9998
3.5	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998	0.9998
3.6	0.9998	0.9998	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999
3.7	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999
3.8	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999	0.9999
3.9	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000	1.0000

one obtains the following:

***1 : $1-(1-0.8413)\times 2=0.68$** ***2 : $1-(1-0.9772)\times 2=0.95$**

Thus, for the present invention, at ± 5% of the μ (mean particle diameter), there are 68% of the particles and at ± 10% of the μ, there are 95% of the particles present. This is shown in the graph below, with a comparison to the range in Delrieu:



The resulting distribution of particles in the present invention is therefore much more highly compact than suggested or achievable by Delrieu. In fact, there is nothing with Delrieu or the other cited references to suggest how to obtain such a tight particle size distribution as required in the present invention. It is only upon reading Applicants' disclosure that one of ordinary skill would be able to achieve such uniformity of particle sizes, and thus achieve the unique properties of the present invention, such as improved storage stability without the particles floating to the surface or precipitating to the bottom, along with improved aesthetic appearance.

Accordingly, it is clear that the present invention, as now claimed, distinguishes over the cited references, and the previous rejections should be withdrawn.

Applicants submit that the application is now in condition for allowance and early notification of such action is earnestly solicited.

Respectfully submitted,

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